| C | ase 3:02-cv-00097-JKS | Document 102-7 | Filed 08/12/2008 | Page 1 of 4 |
|----|---|--------------------------|------------------|-------------------|
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| 8 | Attorney for Defendants | | | |
| 9 | IN THE UNITED STATES DISTRICT COURT | | | |
| 10 | FOR THE DISTRICT OF ALASKA | | | |
| 11 | | | | |
| 12 | RALPH KERMIT WIN | TERROWD, 2 ND |) | |
| 13 | Plai | ntiff, | Ś | |
| 14 | vs. | |) | |
| | a-Atlast | |) Case No.: | 3:02-cv-00097-JKS |
| 15 | BRAD L. NELSON, ET | AL., |) | |
| 16 | Def | endants. | í | |
| 17 | - | | | |
| 18 | AFFIDAVIT OF COUNSEL | | | |
| 19 | STATE OF ALASKA |) | | |
| 20 | 35-3-030-4-10-10-10-10-10-10-10-10-10-10-10-10-10- |) ss: | | |
| 21 | THIRD JUDICIAL DIS | FRICT) | | |
| 22 | 1. I am counsel assigned to defend the above captioned matter and have | | | |
| 23 | knowledge of the information contained herein. | | | |
| 24 | On July 28, 2008, Mr. Winterrowd served the attached discovery requests and | | | |
| 25 | notices of deposition. | | | |
| 26 | | | 9000 | 9 |
| | | | B | trivibility |
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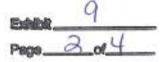
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- 3. The deposition notices indicate Mr. Winterrowd's intention to take the deposition of Brad Nelson at 8:30 a.m. on August 14, the deposition of John Cyr at 1:00 p.m. on August 14, the deposition of Robert Baty at 8:30 a.m. on August 15, and the deposition of Dennis Casanovas at 1:00 p.m. on August 15.
 - 4. These dates were not discussed with me prior to service of the notices.
- 5. Both the paralegal assigned to assist me in this case and I have been in trial for the past week in another matter and were heavily involved in preparing for that trial when Mr. Winterrowd served his notices. I have been extremely busy for most of this summer with depositions and discovery in another large and very complex case that involves allegations spanning an eighteen year period that is set for trial in November.
- Because of the press of these other matters, including a scheduling conflict, I
 am not available for the depositions of Nelson, Cyr, Baty, and Casanovas on the dates
 selected by Mr. Winterrowd.
- 7. My paralegal, Patricia Anderson, has also contacted or attempted to contact Brad Nelson, John Cyr, Robert Baty, and Dennis Casanovas. I am informed that Trooper Nelson is on the North Slope for the next two weeks and unavailable on August 14. Trooper Cyr is out-of-state for military training and unavailable on August 14. Trooper Baty is retired and Ms. Anderson has not been able to reach him concerning his availability.

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that date. Notably Captain Casanovas has also been dismissed from this case and is no longer a party.

8. All discovery in this case was required to be completed by July 28, 2008

Captain Casanovas has other work duties scheduled for August 15 and is not available on

- 8. All discovery in this case was required to be completed by July 28, 2008 under the Court's pre-trial order. This date was an extension from the original discovery close date which was in March 2008. The extension was requested by Mr. Winterrowd and unopposed by me. In that period I deposed Mr. Winterrowd and his ex-wife, Kimberly Fitzgerald. Mr. Winterrowd attended Ms. Fitzgerald's deposition. In that time I did not receive any discovery requests from Mr. Winterrowd.
- 9. Much of the discovery that Mr. Winterrowd seeks has already been provided to him or it has been explained to him that the documentation he seeks no longer exists. However, in this last round of discovery he has also served 42 requests for admission on each defendant and Captain Casanovas, who is no longer a party in this action. In addition to these requests for admission he asks in the interrogatory section for a legal and factual explanation for each denial of these requests for admission. These requests are burdensome and have been filed outside the discovery deadlines set by the court.
- On August 11, 2008, I spoke with Mr. Winterrowd and explained the State's position concerning his untimely discovery requests and deposition notices. Mr.

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Winterrowd indicated he disagreed and wished to go forward with the discovery and

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depositions as requested.

Stephanie Galbraith Moore

SUBSCRIBED AND SWORN to before me this Aday of August, 2008.



NOTARY PUBLIC FOR ALASKA

My Commission Expires: W Dice

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